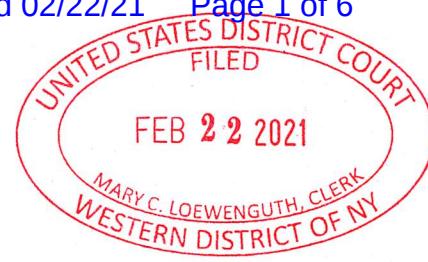


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Terry Angel,

Plaintiff, Pro Se

-CV-

Complaint

v

C.O. Gruka, Sr.

Defendant,

21 CV 285

PLEASE TAKE NOTICE, the undersigned will bring a motion for an order granting relief for excessive force, and compel the defendant to make whole your complainant Pursuant to Title 28 USC § 1983civil rights action; Pursuant to the United States Constitution §§ 8th and 5th Amend., and Tort Law.

The defendant works at Collins Correctional Facility, he is employed as a corrections officer.

1. This claim is properly raised before this court because general jurisdiction authorizes this court to decide this claim on the merits.
2. The Western District of New York is the proper venue because the subject matter is based in Constitutional Law
3. Your petitioner is asking the court to order the defendant to pay damages in the amount of \$ 250,000.00

Respecfully submitted

Terry Angel Pro Se
 Terry Angel
 DIN: 18722392
 Date: 2-18-21

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Terry Angel,

Plaintiff, Pro Se

-CV-

AFFIDAVIT IN
SUPPORT OF
MOTION PURSUANT
TO TITLE 28 USC
§ 1983

v

C.O. Gruka, Sr.

Defendant,

I, Terry Angel deposes and says, I am a(n) inmate incarcerated at Collins Correctional Facility, P.O. Box 340 Collins, N.Y. 14034-0340. C.O. Gruka, Sr. whom works at Collins Correctional Facility as a Corrections Officer.

1. On or about 11-25-20, at or about 3:45pm I was in the process of moving to another dorm. Sargent Black, not a party to this suit, came to my cel at approximately 2:45pm to discuss a situation involving another inmate. He determined, I would be moving to Dorm C.
2. We talked in his office, when I return, to gather my belongings I learned they were already packed into (2) draft bags, in my absence. "" was not issued a misbehavior report before staff pack the bags. I was concerned about leaving the area without checking my bags.
3. I asked C.O. #1, not a party in this action, known to be fair and understanding, if I could make sure my medication and trimmers were in the bag(s), he did not reply, so I dumped a bag. I was told to stop.
4. C.O. Gruka Sr. came into view as I was about to dump the second bag. he said, "Don't do that, don't do that." I was intent on finding

my (Med's) as my sugar level was low, due in part to the problem earlier with inmate Elliott. I am elderly, DOB: 3-23-68 and under Doctor' care. I suffer with upper respiratory problems.

5. As C.O. Gruka Sr. was yelling at me, I dumped the bag, at that point (Gruka) swung at, striking me in the face which caused a laceration close to my right eye.

6. I was then grabbed by my arm and thrown to the floor by (Gruka) and #3, not a party in this action.

7. while I was pinned to the floor by (2) or more C.O.'s including (Gruka), the defendant wrapped his arm around my neck and mercilessly punched me mutipal times in the face with a closed fist.

8. I was handcuffed and escorted to the infirmary, there I was treated for the cut inflicted to my face. My face felt swollen and my head hurt pretty bad. I experienced substantial pain from my injuries.

9. I was eventually taken to the "BOX" where I spent the next (40) days for disobeying a direct order. I did not protest the disposition following a tier hearing because I felt helpless and overcome with fear and undue influence by the H.O.

WHEREFORE I PRAY, for the relief sought in this petition or such and other remedy the court deems just and proper.

SWORN TO BEFORE ME THIS
____ DAY OF _____, 2021

NOTARY PUBLIC

Respectfully Submitted,

Terry Angel
Terry Angel
DIN: 18R2392
Date: 2-18-21

IN ABSENCE OF NOTARY

IN THE MATTER OF: Terry Angel ProSe V. C.O. Gruka Sr.

Claim No.: New Claim

STATE OF NEW YORK)
) s.s.:
COUNTY OF ERIE)

I, Terry Angel # 18R2392, the declarant, Pro-Se, in the above stated matter, hereby declare under penalty of perjury, pursuant to 28 U.S.C. § 1746; and People V. Sullivan, 56 N.Y.2d 378; 452 N.Y.S.2d 373 (1982); and N.Y.S. P.L. §§ 210.40 and 210.45 that:

I understand that false statements made in the foregoing document(s) are punishable as a Class A Misdemeanor, pursuant to 28 U.S.C. § 1746 of the United States Code Annotated, and N.Y.S. P.L. §§ 210.40 210.45. I further declare that the statements made in the foregoing documents submitted in the above stated proceeding, are true and correct to the best of my knowledge, upon information and belief, and that I believe them to be true and correct under penalty of perjury.

Dated: FEBRUARY, 2021
Collins, New York

Terry Angel ProSe
Signature of Declarant

Terry Angel # 18R2392
Collins Corr. Facility
P.O. Box 340
Collins, NY 14034-0340

Terry Angel D#18R2392
Collins Correctional Facility
P.O. Box 340
Collins, NY. 14034-0340

FEB 22 2021

USCG-WNY
BUFFALO

No funds
were enclosed

1.80
COURT INS. INCLUDED
02/22/2021
US POSTAGE \$0.80
Legal Mail
FEDERAL EXPRESS

United States Dist. Ct. Clerk
304 U.S. Courthouse
68 Court Street
Buffalo, N.Y. 14202-3498

Legal Mail

CIVIL COVER SHEET

21

CV

285

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Terry Angel ProSe

(b) County of Residence of First Listed Plaintiff Erie
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Pro Se DIN: 18R2392

DEFENDANTS

County of Residence of First Listed Defendant

Erie
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) Unknown

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	<input type="checkbox"/> PTF 1	<input type="checkbox"/> DEF 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> PTF 4	<input type="checkbox"/> DEF 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury	PROPERTY RIGHTS	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	LABOR	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Labor Litigation	SOCIAL SECURITY	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contract	<input checked="" type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 790 Other Labor Litigation	FEDERAL TAX SUITS	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	IMMIGRATION		<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): U.S. const 8th Amend

VI. CAUSE OF ACTION

Brief description of cause:

I was punched in the face multiple times by Corr. Ofc.

VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION
UNDER RULE 23, F.R.Cv.P.

DEMAND \$

250,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

Terry Angel ProSe DIN: 18R2392